

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

MRG CONSTRUCTION CORP.,

Plaintiff,

v.

CASE NO.

CBS SERVICE, LLC,

Defendant.

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**COMPLAINT**

NOW COMES, Plaintiff, MRG Construction Corp. (hereinafter “Contractor”), by and through its undersigned attorneys, and for its Complaint for Breach of Contract and Unjust Enrichment against defendant, CBS Service, LLC (hereinafter “Subcontractor”), states:

**THE PARTIES, JURISDICTION AND VENUE**

1. Contractor is an Illinois corporation with Chicago offices located at 200 N. LaSalle Street, Chicago, Illinois.
2. Subcontractor is an Indiana limited liability company with South Bend offices located at 401 E. Colfax Avenue.
3. These causes of action relate to a subcontract dated April 27, 2022 by and between Contractor and Subcontractor ("Subcontract") which was to be performed by Subcontractor for Contractor in Mishawaka, Indiana.

4. Venue is proper in this district pursuant to 28 U.S.C. §1391(b)(1) and (b)(2) because Subcontractor is a resident of this district and a substantial part of the events or omissions giving rise to the claims herein occurred in this district.

5. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because the amount in controversy exceeds \$75,000.00 and Contractor and Subcontractor are of different state citizenship.

### **COUNT I - BREACH OF CONTACT**

6. Contractor readopts and realleges paragraph 1 through 5 above as paragraphs 1 through 5 of Count I as though fully set forth therein.

7. The Subcontract is a valid and enforceable agreement which is attached hereto as Exhibit “A”.

8. Contractor performed all of its duties and obligations required under the Subcontract and all conditions precedent under the Subcontract have occurred.

9. Article 2 of the Subcontract required Subcontractor to perform all work required by the Contract Documents for the labor, materials, and equipment to do the Subcontract Work.

10. Article 3 of the Subcontract required Subcontractor to substantially complete all of the work required by the Contract Documents as per the schedule approved by Contractor, Architect and Owner.

11. Contrary to its obligations in Article 2 of the Subcontract, Subcontractor failed to perform all work required by the Contract Documents for the labor, materials, and equipment to do the Subcontract Work.

12. Contrary to its obligations in Article 3 of the Subcontract, Subcontractor failed to substantially complete all of the work required by the Contract Documents as per the schedule approved by Contractor, Architect and Owner.

13. Contractor has been damaged in an amount in excess of \$75,000.00 by Subcontractor's failure to comply with its obligations under the Contract Documents and is entitled to damages in excess of \$75,000.00 together with interest.

14. Pursuant to Article 14.16 of the Subcontract, Contractor is entitled to recover from Subcontractor all of its reasonable fees, costs, and expenses (including, but not limited to, reasonable attorneys' fees and expenses) incurred in this action.

WHEREFORE, Plaintiff, MRG Construction, Inc., prays for a judgment against Defendant CBS Service, LLC in an amount in excess of \$75,000.00, plus interest and attorneys' fees, costs and expenses pursuant to Article 14.16 of the Subcontract and for such other and further relief as this Court deems just and appropriate.

**COUNT II - UNJUST ENRICHMENT**

15. Contractor readopts and realleges paragraph 1 through 14 above as paragraphs 1 through 14 of Count I as though fully set forth therein.

16. By virtue of the conduct of Subcontractor alleged herein, Subcontractor has been unjustly enriched by virtue of Contractor's overpayment to Subcontractor of improperly calculated amounts due for incomplete work, which calculations were outside of the provisions of the Subcontract.

17. Contractor has been damaged in an amount commensurate with its overpayment of improperly calculated amounts due for incomplete work, which overpayments were above and beyond amounts actually required by the provisions of the Subcontract.

WHEREFORE, Plaintiff, MRG Construction, Inc., prays for a judgment against Defendant CBS Service, LLC in an amount in excess of \$75,000.00 and for

such other and further relief as this Court deems just and appropriate.

Respectfully submitted,

s/Lee D. Sarkin

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